



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

June 13, 2012

Memorandum for: Deputy Commissioner, Trials
Re: **Police Officer Kalomo Glover**
Tax Registry No. 930228
Fleet Services Division
Disciplinary Case Nos. 2008-0876, 2008-0878, 2009-0879
& 2011-4738

CHAN

The above named member of the service appeared before Assistant Deputy Commissioner David S. Weisel on June 24, 2011, and was charged with the following:

DISCIPLINARY CASE NO. 2008-0876

1. Said Police Officer Kalomo Glover, while assigned to Transit Bureau District #33 and Brooklyn Court Section, on or about December 27, 2007 and January 7, 2008, with intent to harass, annoy, threaten or alarm another person communicated with said other person by telephone, telegraph, mail or any other form of written communication in a manner likely to cause annoyance or alarm, by sending threatening emails and text messages.

**P.G. 203-10, Page 1, Paragraph 5
PENAL LAW 240.30(1)(a)**

**GENERAL REGULATIONS
AGGRAVATED HARASSMENT**

DISCIPLINARY CASE NO. 2008-0878

1. Said Police Officer Kalomo Glover, assigned to the Manhattan Court Section, on or about April 28, 2008, while off duty, did wrongfully and without just cause violate an order of protection issued at Kings County Criminal Court, Docket #2008KN018772, to wit: said Police Officer sent an e-mail to an individual, identity known to this Department.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED
CONDUCT**

PENAL LAW 215.51(b)

CRIMINAL CONTEMPT IN THE FIRST DEGREE

DISCIPLINARY CASE NO. 2009-0879

1. Said Police Officer Kalomo Glover, assigned to the Manhattan Court Section, on or about December 19, 2008, while off-duty, did wrongfully and without just cause violate an order of protection issued at Kings County Criminal Court, Docket #2008KN018772 and Docket #2008KN032317.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED
CONDUCT**

PENAL LAW 215.51(b)

CRIMINAL CONTEMPT IN THE FIRST DEGREE

1. Said Police Officer Kalomo Glover, while assigned to the Manhattan Court Section, on or about September 6, 2010, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer stated, in sum and substance: "She's so skinny I'd break her, could you imagine? I would break her, I would break her" to a female individual known to the Department.

P.G. 203-10, Page 1, Paragraph 5

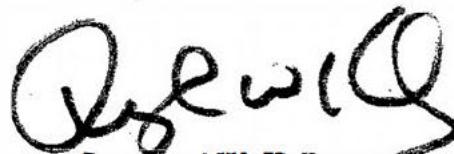
**PUBLIC CONTACT
GENERAL REGULATIONS**

In a Memorandum dated March 13, 2012, Assistant Deputy Commissioner David S. Weisel, found the Respondent Guilty of all of the above referenced Charges and Specifications. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

The Respondent's misconduct in these matters warrant the Respondent's separation from the Department. However, with consideration of his prior service, temperance against an outright dismissal from the Department is presented and I will permit an alternative manner of separation from the Department for Respondent Glover at this time.

It is therefore directed that an **immediate** post-trial vested-interest retirement agreement be implemented with the Respondent. In consideration of such, Respondent Glover is to be suspended for a thirty (30) day period (without pay) and remain and separate from the Department on a continued suspended duty status, forfeiting all suspension days since served and to be served, all accrued leave and time balances, and terminal leave, if any. Respondent Glover is to also be immediately placed on a One-Year Dismissal Probation period.

Such vested-interest retirement shall also include the Respondent's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Respondent Glover does not agree to the terms of this vested-interest retirement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY**.



Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

March 13, 2012

In the Matter of the Charges and Specifications : Case Nos. 2008-0876
2008-0878,
- against - : 2009-0879,
& 2011-4738

Police Officer Kalomo Glover :

Tax Registry No. 930228 :

Fleet Services Division :

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable David S. Weisel
Assistant Deputy Commissioner Trials

A P P E A R A N C E:

For the Department: Rita Bieniewicz, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: Craig Hayes, Esq.
Worth, Longworth & London, LLP
111 John Street Suite 640
New York, New York 10038

To:

HONORABLE RAYMOND W. KELLY
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038



POLICE DEPARTMENT

In the Matter of the Disciplinary Proceedings : X

- against : FINAL

Police Officer Kalomo Glover : ORDER

Tax Registry No. 930228 : OF

Fleet Services Division : DISMISSAL X

Police Officer Kalomo Glover, Tax Registry No. 930228, Social Security No. ending in [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 2008-0876 (83764/08), 2008-0878 (84042/08), 2009-0879 (84881/09) & 2011 4738 as set forth on form P.D. 468-121, dated February 11, 2008, May 2, 2008, December 23, 2008 and May 9, 2011, and after a review of the entire record, Respondent has been found Guilty in Disciplinary Case Nos. 2009-0879 and 2011-4738, and having pleaded Guilty is found Guilty in Disciplinary Case Nos. 2008-0876 and 2008-0878.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Kalomo Glover from the Police Service of the City of New York.

RAYMOND W. KELLY
POLICE COMMISSIONER

EFFECTIVE:

The above-named member of the Department appeared before the Court on June 24, July 28, and December 19, 2011, charged with the following:

Case No. 2008-0876

1. Said Police Officer Kalomo Glover, while assigned to Transit Bureau District #33 and Brooklyn Court Section, on or about December 27, 2007 and January 7, 2008, with intent to harass, annoy, threaten or alarm another person communicated with said other person by telephone, telegraph, mail or any other form of written communication in a manner likely to cause annoyance or alarm, by sending threatening emails and text messages.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS
PENAL LAW 240.30 (1)(a) AGGRAVATED HARASSMENT

Case No. 2008-0878

1. Said Police Officer Kalomo Glover, assigned to the Manhattan Court Section, on or about April 28, 2008, while off-duty, did wrongfully and without just cause violate an order of protection issued at Kings County Criminal Court, Docket# 2008KN018772, to wit: said Police Officer sent an e-mail to an individual, identity known to this Department.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT PROHIBITED CONDUCT
PENAL LAW 215.51 (b) CRIMINAL CONTEMPT IN THE FIRST DEGREE

Case No. 2009-0879

1. Said Police Officer Kalomo Glover, assigned to the Manhattan Court Section, on or about December 19, 2008, while off-duty, did wrongfully did and without just cause violate an order of protection issued at Kings County Criminal Court, Docket #2008KN018772 and Docket #2008KN032317.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT
PENAL LAW 215.51 (b) – CRIMINAL CONTEMPT IN THE FIRST DEGREE

Case No. 2011-4738

1. Said Police Officer Kalomo Glover, while assigned to the Manhattan Court Section, on or about September 6, 2010, engaged in conduct prejudicial to the good order, efficiency or disciplinary of the Department, to wit: said Police Officer stated, in sum and substance: “She’s so skinny I’d break her, could you imagine? I would break her, I would break her” to a female individual known to the Department.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT
GENERAL REGULATIONS

The Department was represented by Rita Bieniewicz, Esq., Department Advocate's Office. Respondent was represented by Craig Hayes, Esq., Worth, Longworth & London LLP.

Respondent, through his counsel, entered a plea of Not Guilty to Case Nos. 2009-0879 and 2011-4738. He pleaded Guilty to Case Nos. 2008-0876 and 2008-0878, and testified in mitigation of the penalty. A stenographic transcript of the trial-mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

In Case Nos. 2009-0879 and 2011-4738, Respondent is found Guilty. Having pleaded Guilty to Case Nos. 2008-0876 and 2008-0878, Respondent is found Guilty.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Person A, Person B, Police Officer Ronald Robinson, and Sergeant Debbie Graves as witnesses.

Person A

Person A had been employed by the New York City Transit Authority for 11 years. Respondent was her ex-boyfriend. They met in March 2004 and dated for approximately four years. She stated, however, that she broke up with him in July 2007 because he was cheating on

her. On December 27, 2007, Respondent came to Person A's house and banged on her door. She believed it was him because he had done it a week before.

The same day, Person A testified, she received an e-mail from Respondent (Department's Exhibit [DX] 1). In it, Respondent wrote that she was "a stupid fucking bitch" and that "[a]ll bets were off." He insulted her several times, calling her a "[s]tupid fucking whore!" He ended the e-mail by telling her, "I have never hit a girl before but for real for real if you see me in the streets you better run." Person A felt threatened by the e-mail and went to the police. She was informed by a member of the New York City Police Department (Department or NYPD) that Respondent had been instructed not to contact her.

Still, on January 7, 2008, Person A received a text message from Respondent that his grandmother had died. She went to the District Attorney's Office and eventually obtained an order of protection regarding the e-mail and the text (see DX 2, order dated Apr. 16, 2008, valid until Apr. 15, 2010). (The Advocate stated in opening that Person A went to Criminal Court about her complaints. A desk appearance ticket was issued for Respondent charging aggravated harassment, and he pleaded guilty to disorderly conduct. As a result of the conviction, the order of protection was issued. This relates to Case No. 2008-0876).

When asked if she received an e-mail from Respondent "regarding a My[]Space account," Person A said yes. When asked to explain, however, she said "it was a Face[b]ook request. . . . It was a request to be a friend, he asked me to be his friend on Face[b]ook." Person A did not have a Facebook account but she and Respondent were already friends on MySpace. (The Advocate stated in opening that the e-mail was sent on April 28, 2008. In a docket originally charging criminal contempt, Respondent was convicted of disorderly conduct.

An order of protection was issued on August 14, 2008, and was in effect until August 13, 2010 [see DX 3]).

On December 19, 2008, at “[a]pproximately” 11:10 p.m., Person A testified, she saw Respondent. She was in front of her house [REDACTED] shoveling snow. Her back was to her house when she noticed Respondent’s “Jeep a burgundy Ford [E]xplorer drive slowly” down her block. Respondent stopped, with the passenger window down, and looked at Person A. Her friend was shoveling with her and Respondent told her to look also. Person A’s friend did not know Respondent, though, and had never seen him before.

Person A testified that Respondent looked at both women, smirked, then sped off. Person A was able to view him for “[m]aybe under a minute, about a minute.” Person A testified that she was closest to the passenger side of the vehicle. She saw his face and had no doubt that it was Respondent. She was familiar with his vehicle from having dated him.

Person A stated that she called the police at “[a]pproximately” 12:58 a.m. She waited so long because she wanted to finish shoveling and because she knew from prior experience that the process would take a long time. She also asserted that she did not want to “make a scene in front of my neighbors.”

On cross examination, when asked if she was upset and angry after Respondent cheated on her, Person A claimed she was “disappointed.”

Person A testified that she never met Respondent’s grandmother. She did see his mother once. She agreed that she and Respondent had been in a serious relationship. When Respondent texted Person A about his grandmother’s death, she did not think that he was just upset and wanted to tell her about it because he was not close with his family. Person A contended that Respondent “despised a lot of his sisters.”

Person A admitted that on December 26, 2007 (the day before the DX 1 e-mail), Respondent e-mailed her and said, "I just can't bring myself to do anything to cause you harm." He also wrote, "I really love you and miss having you as part of my life" and "I am sorry again for all the pain I caused and I am sure I deserve the way I am feeling right now." In that e-mail, Respondent wrote that the date of a basketball game they attended together was the best day of his life. He begged her to give a tape of that game to him so that he could be reminded of it. Person A agreed that he told her he would never hurt her, but also said "he will wait ten years just to" hurt her. On Christmas Day, Person A admitted, Respondent e-mailed her holiday greetings.

Person A testified that she had been shoveling snow for about half an hour before Respondent drove by her home. It had stopped snowing. At the time Respondent drove by, Person A was shoveling the sidewalk. It was a two-way street; there was no double yellow line but there was parking on both sides of the street. She did not believe anyone was parked in front of her house but it was possible. Person A contended that it was uncommon for cars to park there because she was all the way at the end of the block. There were more houses in the other direction.

Person A testified that the interior light of Respondent's vehicle was not on but there was a street light illuminating the area. She was not able to see his hair style. The distance between her and the vehicle was approximately the distance from the witness stand to the seats at the Advocate's table.

Person A testified that even though she was shocked and felt threatened, she did not call 911 right away.

Person B

On an evening during Labor Day weekend in 2010, Person B a 30-year-old bank teller [REDACTED], went out in Manhattan with some friends. She was driving but consumed alcohol. While driving home, at approximately 3:30 a.m., she was stopped by the police and arrested for driving while intoxicated. She was taken to a precinct station house, then court. She waited in a cell to see the judge.

Person B testified that she was not in handcuffs when she was brought to see the judge. She was wearing a bright blue tight-fitting dress and high heels. She was no longer feeling the effects of the alcohol. Once in the courtroom, she waited about 15 to 20 minutes until her case was called. She was seated on a bench facing the same way the judge was facing.

Person B observed "three officers in front of me, there was a court officer to the left and the judge was to the left." The three were seated at a table, approximately the same distance from the Trial Room witness stand to the bench behind the Advocate's table. There were two African American officers, one with braids and one with short hair. The third officer was white. The officer with the braids, Respondent, was on Person B's left and the white officer was in the middle.

Person B noticed that Respondent kept looking at her and looking back into the gallery. He was on his cell phone, texting, and was "kind of slouched back." When Person B's case was called, she had to walk by Respondent. She heard Respondent say to the white officer, in a "very loud" voice, "[S]he's so skinny I would break her, I would definitely break her." He repeated it twice. A court officer told him to be quiet.

Person B was upset and understood Respondent's remark to be sexual in nature: "[T]hat he was imagining himself having sex with me and being so rough with me that he would break

me." She felt violated and humiliated, and threatened in a way: "I was in a courtroom I knew nothing was going to happen but." Other than the court officer, Person B was the only female standing up and Respondent made the remark right when she walked past him.

After seeing the judge, Person B left court with her boyfriend. Once they got into their car, she told him what happened. She made a complaint about Respondent's conduct.

Person B pleaded guilty to the violation of driving while ability impaired. Her driving privileges in New York State were suspended for one year, except for work or school travel.

On cross examination, Person B admitted that she had been arrested for assault about five years ago. She was at a club with some friends, one of her friends got into a fight, and Person B "got involved." She pleaded guilty to a violation.

On the night of the instant incident, Person B arrived at the first bar at approximately 11:00 p.m. They went to perhaps three bars that night. She was drinking vodka with cranberry and pineapple juice. She had one and half of these cocktails; she remembered not finishing the second one. She stopped drinking around 1:00 a.m., but they left the last bar around 3:15 a.m. She knew she was intoxicated but "I felt I was driving fine."

When Person B was pulled over, on the Lower East Side, the officer said she made a right turn from the middle lane. Person B testified that she did not do so. The officer asked her to take a breath test at the scene and another test at the precinct; she refused both.

Person B slept for two to three hours at the station house. She denied feeling hung over or tired during the arraignment.

Person B heard Respondent's comment while she was walking. He said it three times. The judge would have been to her left, and the officer to her right. She was looking at where she

was supposed to stand in front of the judge. Respondent was standing next to the two other officers at the time. They were at a table.

By the third time Respondent made the remark, and Person B "realized that he was going to say something else about me," she looked at him. The court officer that shushed him was female. The other two police officers ignored him.

Person B testified that the African American officer with the short hair spoke to her when she was sitting on the bench. He told her that her lawyer wanted to speak to her. Person B did not remember whether a court reporter was present and did not recall the court clerk.

Person B stated in her complaint that the white officer was named Connors; she saw his name tag. (This was Detective Peter Connors, see infra).

Upon examination by the Court, Person B testified that about an hour before she and her friends finished their night out, she started drinking water. She was given milk and water to drink between the time of her arrest and arraignment. She was allowed to go to the bathroom.

Sergeant Debbie Graves

Graves was assigned to the Criminal Justice Bureau Investigations Unit. She investigated Person B's complaint. Person B stated that while she was in the Manhattan Court Section (MCS) waiting to be arraigned, a male black police officer with "corn roll braids" in his hair said, "[S]he's so skinny, she's so skinny, I could break her, could you imagine I would break her."

Graves testified that there were four Department members in uniform assigned to the courtroom that day: Respondent, Police Officer Ronald Robinson, Connors, and Police Officer Shantell McKinnies. Respondent and Robinson were the only African Americans.

Respondent was interviewed by other personnel. Respondent asserted that Robinson said something about a female defendant. With that, Robinson became a subject of the investigation.

Graves interviewed Robinson, who denied making the statement and said that it was Respondent. Respondent, according to Robinson, added something along the lines of, “[S]he’s so slim I would destroy her.” At the time of the interview, Robinson had “a very short afro” and no braids. Graves stated that Connors and McKinnies were interviewed but did not hear any comments.

Graves interviewed Person B’s boyfriend, who stated that he was in the gallery and observed the officer with cornrows lean over to the other male black officer, say something, and laugh. Graves did not do a photo array using Respondent because the photograph she obtained did not portray him in cornrows (at the time of trial, Respondent had cornrows; he was appointed to the Department in 2002).

Graves did not consider the possibility that a court officer made the remark. She noted that Person B described the officers as sitting at the table facing the judge. Graves was familiar with the arraignment part in question and testified that only NYPD officers sat there. Graves’s understanding was that Person B was arraigned in the felony arraignment part.

On cross examination, Graves acknowledged that she told Robinson at the start of his official Department interview that he was the subject of the investigation and that the allegation was that he made certain comments. Graves read the alleged comment to Robinson. She testified, additionally, that she told him, “A female complainant said this comment was made in the courtroom do you know who said it.” Robinson did not think Respondent made the comment loudly enough for Person B to hear it.

Graves did not know what Person B was arrested for. When Graves was asked if she thought it relevant that the charge was driving while intoxicated, "being under the influence just the night before of alcohol prior to this allegation," she responded, "If that was part of my case but that wasn't my case." She disagreed that Person B's credibility was relevant, then agreed that a complainant's credibility was always relevant but pointed out that she spoke to Person B last.

Graves insisted that as to who was working in the arraignment part at the time of the incident, she only had access to records of what Department personnel were present. She did not speak to the judge, court clerks, or the one court officer she recalled would have been present. Graves did not "know who was present . . . I just know from NYPD who was present." When asked, "Did you ever think maybe I should speak to the court reporter and see if she or he heard anything during this incident?," Graves replied, "I didn't interview anyone but those four officers, sir."

Police Officer Ronald Robinson

Robinson was assigned to the 114 Precinct and had been a member of the Department for ten years. On September 6, 2010, he was assigned to MCS, as was Respondent. They occasionally worked the same tour. At the time, Robinson was on modified duty as a result of allegations made by his ex-wife. These allegations were unsubstantiated.

Robinson testified that he was subjected to an official Department interview concerning an incident that occurred at MCS on September 6, 2010. He learned that there was an allegation that a certain comment was made to a prisoner. The comment was "I would break her or can you believe how thin she was I'll destroy her."

On the date in question, Robinson was assigned to the felony arraignment part. His post was to sit at the "arraignment table" and make sure that the defendant was the actual individual whose name was called, as well as to check for warrants. This table was behind where the defendants stood when being arraigned. Respondent's assignment was to be the "transporter," the person that brought the defendants into the courtroom. Robinson testified that the arraignment table was at the same location as the Respondent's table in the Trial Room. The judge's bench in each courtroom was about the same distance from the table, and the gallery was separated by about the same distance as well. He described the courtroom as slightly bigger than the Trial Room. The prisoners were seated to the left of where the Respondent sits in the Trial Room, in the corner, on a bench. There was a low platform or bench that separated the prisoners from everything else.

At the time of Respondent's comment, he was sitting next to Robinson at the table. When asked if he said it "in a whisper," Robinson answered, "He leaned over and basically made the comment." Robinson observed that a female defendant was being arraigned and was in front of the judge. She was less than a foot away. Robinson understood the comment to be sexual in nature: that if Respondent were to have sex with the defendant, he would "break her" because she was so thin and slim.

Robinson denied making the comment. On the date of the incident and at trial, Robinson had a "short caesar" haircut. There were no braids or cornrows.

On cross examination, Robinson stated that he was told during his official interview that he was the subject of an investigation and was made aware of the allegation. He did not immediately offer that Respondent made the comment. He was, however, asked at some point

who made the comment, and replied that it was Respondent. The investigator did not "say Officer Glover she just said a comment was stated and she asked me if I made the comment."

Robinson testified that the defendant's attorney was standing next to her while the comment was said. Respondent said it in his normal tone of voice, not whispering and not yelling. Robinson believed it was for his ears only.

Nevertheless, Robinson asserted, the defendant turned and looked at Respondent. Robinson admitted stating in his official Department interview, however, that the defendant did not turn around. He maintained at trial that he remembered her turning around "as I, you know, I think about the situation and from the time when I had that" interview. Although he was told of the allegations at the interview, he "had to actually think for a moment what exactly they were speaking about." Once he "sat down with" the Advocate and "she debriefed me on the case I was able to understand and get an idea and remember things more."

Robinson testified that he looked at Respondent as well. Of the two officers, Respondent was closer to the arraignee.

Robinson stated that in general, there would have been another officer present at a post nearby. The court reporter sat to the judge's right, in a glass booth. Robinson did not see anyone else turn and "look at you guys" when the comment was made, and he did not recall saying anything. He did not believe the comment was loud enough for the reporter to hear.

Robinson testified that if a prisoner were released at arraignment, she would turn around and walk straight out of the courtroom, through the gallery.

Robinson felt that the remark was "typical of Officer Glover." Robinson admitted that it was misconduct, but did not report it to a supervisor. Robinson was not disciplined for this.

Two to three weeks later, Respondent told Robinson that he had been spoken to by a supervisor at MCS, who informed Respondent of the allegation and told him "I shouldn't say things." Specifically, Respondent "basically said do you believe this shit the LT told me that Nassau cop not the girl was making a complaint because she said I tried to talk to her and that I made a comment about her in the courtroom. . . . I wasn't the only black person in the courtroom. Respondent denied the allegation to Robinson, saying "[I]t wasn't even me."

On re-direct examination, Robinson testified that when Respondent told him of the allegation, Respondent did not "implicate Robinson in any way or say that you were also involved in this incident."

Upon examination by the Court, Robinson testified that the same supervisor reminded the arraignment officers "about conduct in the courtroom."

Robinson believed at the time of the interview that Respondent had accused him of making the comment because Respondent had denied it, and they were the only two black police officers in the part.

Respondent's Case

Respondent testified on his own behalf.

Respondent

Respondent had worked for the Department for nine and a half years. He had been involved in a relationship with Person A for approximately four and a half years prior to 2007. They had known each other for six years. They broke up in early 2007. "It was a little complicated but I won't get into all that." Person A wanted to get married "and kept sending me

e-mails asking me to marry her and have children with her and I wasn't ready for that so I distanced myself from her." Later that year, they "had a falling out" when Person A discovered that he was seeing someone else.

In December 2007 to January 2008, however, Respondent "missed her. She was my best friend in the world at the time, and for her to not speak to me was really hurtful." Additionally, his grandmother was dying and did in fact pass away in February 2008. He had also told Person A, earlier in 2007, that he was "feeling a little off." His best friend's father, who was a mentor and father figure because Respondent's own father had died when he was a child, also died in that time frame. The loss of so many people in Respondent's life in such close succession "took me . . . a little off balance."

Respondent testified that he was "extremely hurt" by Person A's refusal to speak to him. He just wanted his friend back and was not interested in rekindling their romance. He admitted sending inappropriate e-mails to her. He was drinking, lost his temper, and "said things that I absolutely should not have said." He also told her that he loved her and would never hurt her. He just wanted to talk to her, and wished happy holidays to her, her family, "and whoever she's with right now." He did not really mean that he would assault her if he saw her in the street.

Respondent stated that he was "[a]bsolutely" past that "rough patch" in his life.

Respondent admitted that at one point there was an order of protection in place directing him not to contact Person A. He nevertheless sent her a MySpace request, which he quickly rescinded. His "brain came back into focus and I realized what the heck am I doing? And I immediately felt remorse and I knew it was something I shouldn't have done."

Respondent testified that he worked a 9x5 tour on December 19, 2008. He remembered that it was snowing as he drove home. That night, he stayed at home. He was playing an Xbox.

Live game in which he was playing over the Internet with multiple individuals in their own homes. In order to play this game, Respondent had to be at his console and television set; it was not possible to play from a remote location. That night, Respondent was playing with his friend, Person D. They began playing somewhere between 8:00 and 8:40 p.m. and continued for five or six hours.

Respondent received a telephone call from his girlfriend, Person C, around 10:40 p.m. on his cell phone. Her number was [REDACTED] Respondent's number was [REDACTED]. He missed the call and called back around 10:50 p.m. His call lasted about 40 minutes. It ended because Person C "got frustrated that I wasn't giving her enough of my focus."

Respondent's cell phone records were admitted as Respondent's Exhibit A. It shows that a call was made from Person C's phone to Respondent's phone at 10:42 p.m. This call lasted a little under two minutes. A call was made from Respondent's phone to Person C's phone at 10:45 p.m. This call lasted a little under 35 minutes.

Respondent testified that until he was picked up and taken to a precinct station house, he spent the entire night at home and did not drive past Person A's house. He denied knowing where she lived.

On September 6, 2010, Respondent was working at MCS. He was sitting at approximately the same location as the chair for the Respondent's attorney in the Trial Room. The prisoners entered the courtroom to his left.

Respondent denied making any comments about a female arraignee. He asserted that it was Robinson that said, "I would destroy her." Robinson was on the other end of the table, five to seven feet from Respondent. Robinson was looking in the direction of Respondent, who told him to stop. He noted to Robinson that the prisoner's boyfriend was a Nassau County police

officer sitting in the first row of the gallery. "Chill out," Respondent told Robinson, who replied that he did not care and continued to "blurt out things." Respondent testified that the prisoner looked directly at Robinson. She never looked at Respondent.

On cross examination, Respondent testified that he did not mean the e-mail in question, in which he told Person A that she "better run" if he saw her, to be threatening. He was not thinking clearly at the time.

Respondent admitted that when he sent the friend request to Person A, he had already been arrested in connection with incidents concerning Person A and suspended by the Department. When asked if he had been warned by Captain William Schweitzer, the duty captain at the time, to refrain from contacting Person A, Respondent answered, "I don't know who Captain Schweitzer is. I'm sure somebody did tell me to refrain from contact with her but I don't recall who or where or when."

Respondent testified that it was Person D, whom he had known since the age of 12, that called or texted him and asked to play Xbox. Person D was a correction officer on Rikers Island but Respondent did not know what tours he worked. When asked if he was aware that Person D was working on December 19, 2008, until 11:31 p.m., Respondent said that it was impossible because "I vividly remember playing the game with him. I don't know whether he used a mutual or he used a vacation day, but unless I see his signature signing in or some concrete evidence that he was at work, I'm almost 100 per cent certain that he was not at work because he was playing a game with me."

DX 7 was the New York City Department of Correction (DOC) Uniform Force Attendance record for Person D. In the space for December 19, 2008, it was written that Person D worked a 1500x2331 tour that day.

Respondent asserted that he did not learn Person A was living at her [REDACTED] address until January 2009.

Respondent testified that after he got home from Central Booking at approximately 3:00 p.m. on December 20, 2008, he began videotaping in an effort to defend himself. He had not driven his car since coming home from work around 5:30 or 6:00 p.m. the previous day. He took these videos before moving his vehicle. It had snowed "very lightly," two to three inches, but as much as four.

DX 8a and 8b were a photograph and the detail thereof, respectively. It shows a parking lot with a sport utility vehicle parked facing front-out. Snow had accumulated on the front windshield and hood, and the windshield wipers do not appear to have been used. Under the vehicle, tire tracks in the snow are present. They are not visible in front of the vehicle's front wheels.

Respondent testified that Person B's boyfriend had come to the police room at MCS and asked for courtesy in moving her case along. That was when Respondent learned that he was a police officer.

Respondent admitted that he had braids in his hair at the time of the courtroom incident and Robinson did not. Respondent's hair was "[e]xactly similar" to how he had it at trial.

Approximately a week and a half later, Respondent testified, his girlfriend at the time, also then a member of the service, angrily approached Respondent and "explained to me that I was alleged to have said something to a female prisoner." He denied it. The same day, his supervisor at MCS pulled him out of the courtroom, saying, "[W]hat happened with that situation." Respondent knew he was being accused so he said, "Listen, that wasn't me. That was PO Robinson." The supervisor then pulled Robinson out and spoke to him. Respondent did

not recall the supervisor telling him that the prisoner had made a complaint against “the Officer with the braided hair.”

Respondent contended that Robinson came back to the courtroom and threatened him, saying that “I better eat that and that I better not snitch on him.” Robinson added, “The bright lights aren’t even on yet.” Respondent claimed that another Police Officer, whom he identified by name, overheard this conversation. He also claimed that Robinson continued to make threats “throughout this whole entire ordeal,” including after Respondent’s official interview. Respondent went to his delegate and asked him to tell Robinson to leave him alone.

FINDINGS AND ANALYSIS

Case Nos. 2008-0876 & 2008-0878

In Case No. 2008-0876, Respondent admitted sending a threatening e-mail to Person A (see Penalty section, infra). In the e-mail, he threatened that in retaliation for perceived slights, he would harm her physically if he saw her “in the streets.” In Case No. 2008-0878, Respondent admitted that he sent Person A a Facebook or MySpace friend request after being ordered repeatedly, by Department supervisors and the judiciary, to stop contacting Person A.

Having pleaded Guilty to these specifications, Respondent is found Guilty.

Case No. 2009-0879

In this case, Respondent is charged with violating an order of protection issued on behalf of [REDACTED], Person A, on December 19, 2008. Person A testified that she broke up with Respondent in July 2007 because he was cheating on her. She no longer wanted to have any contact with him, but he continued to do so. In December 2007, he wrote an

offensive and threatening e-mail to her. She went to a Department station house and was informed that Respondent had been instructed not to speak with her any more. The next month, however, Respondent texted her that his grandmother had died. In response, she obtained an order of protection (see DX 2). This was issued on April 16, 2008, and was valid for two years. Less than two weeks later, however, Respondent contacted Person A on either Facebook or MySpace, possibly with a friend request (the record is unclear: the Advocate stated that it was a MySpace friend request; Person A testified that she and Respondent were already friends on MySpace and that the new request was to be Facebook friends, although she did not have a Facebook account). Respondent was convicted of disorderly conduct. An order of protection was issued on August 14, 2008, and was in effect until August 13, 2010 [see DX 3]).

On December 19, 2008, around 11:10 p.m., Respondent allegedly drove by Person A's home in violation of the order of protection. Person A testified that she was outside shoveling the snow, which had recently ceased. She testified that she recognized his burgundy Ford Explorer from having dated him; it was not clear whether she meant that she recognized the particular vehicle or remembered that he drove a burgundy Explorer. Respondent looked at both Person A and her friend that was with her through the open passenger window, smirked, then sped off. Person A was able to view him for no more than a minute. Person A saw his face and had no doubt that it was Respondent.

Respondent denied all of this. He nevertheless was arrested, but this time went to trial in criminal court, where he was convicted.

Where a public employee that has been convicted of a criminal offense is subsequently charged by his employer with misconduct that mirrors the criminal offense, collateral estoppel bars him from re-litigating at the disciplinary proceeding issues of fact which were necessarily

decided by his conviction. See Meades v. Spinnato, 138 A.D.2d 579, 580 (2d Dept. 1988) (firefighter that pleaded guilty in criminal court to receipt of unlawful gratuities was collaterally estopped from offering evidence at disciplinary hearing that he never received an unlawful gratuity).

It is charged in this tribunal that Respondent "did wrongfully and without just cause violate an order of protection issued at Kings County Criminal Court." Cited as a violated procedure is Patrol Guide § 203-10, p. 1, para. 5. Also cited is Penal Law § 215.51 (b). This is Criminal Contempt in the First Degree, but the charged conduct does not make out that offense. Criminal Contempt in the First Degree is a Class E felony, and under the cited subsection, is essentially aggravated criminal contempt: it requires the violation of an order of protection, plus menacing, stalking, the display of a weapon, etc.

Respondent was never criminally charged with first-degree criminal contempt. He was charged only with Criminal Contempt in the Second Degree, Penal Law § 215.50 (3), a Class A misdemeanor. It is the "[i]ntentional disobedience or resistance to the lawful process or other mandate of a court." The criminal complaint (DX 5) basically alleged that on or about December 19, 2008, at approximately 11:10 p.m., Person A observed Respondent driving his vehicle near her residence. He slowed down and made eye contact with her. The complaint further stated that this was in violation of the August 2008 order of protection, and that Respondent had been served with the order in court.

When the case went to trial in criminal court, the People reduced the charge to Attempted Criminal Contempt in the Second Degree, a Class B misdemeanor. This eliminated Respondent's right to a jury trial. See Criminal Procedure Law § 340.40 (2). The Court

convicted Respondent, after a non-jury trial, of attempted second-degree criminal contempt (see DX 4, certificate of disposition).

The conduct alleged in this tribunal does not “mirror[] the criminal offense” of which Respondent was convicted. An attempt to commit a crime and the completed crime are two different things. Currently, Respondent is charged with violating the order of protection. In criminal court, he was convicted only of attempting to do so. The fact that the proof there likely was very much the same as it was here, and that the charge was reduced as somewhat of a technical artifice, does not alter the fact that he was convicted only of an attempt. As such, Respondent is not collaterally estopped from challenging the proof as to this specification.

Respondent interposed several defenses, all related to alibi. He asserted that he was at home the entire night, playing a multi-player Xbox game over the Internet with his friend, Person D. Person D, Respondent indicated, was playing from a different location. Respondent also alleged that at 11:10 p.m., he was on the phone with his girlfriend, Person C. The phone records (RX A) show a phone call between them from 10:45 p.m. until almost 11:20 p.m. This was on his cell phone, however, so it did not demonstrate that he must have been at home. Although Person A did not testify that Respondent was on the phone when he drove by – neither side asked this question – he could have been using a hands-free device or simply had the phone on speaker, laying on the seat or in the console. In fact, he testified that he had the phone on speaker while playing Xbox. Respondent testified that the 10:45 p.m. call ended because Person C “got frustrated that I wasn’t giving her enough of my focus.” It ended shortly after Person A said Respondent drove by her house. The phone records showed that when Person C called Respondent at 10:42 p.m., the call lasted less than two minutes. Respondent called back at 10:45 p.m. and had the longer conversation. All of this indicates that

while Respondent was on the phone with Person C at 11:10 p.m., the time of the alleged drive-by, he might have been distracted by something else he was doing.

The Department put forth stills from a video that Respondent took of his vehicle, parking in his residence's parking lot. If anything, however, the photographs bolster Respondent's assertion that he did not move his car after coming home around 5:30 or 6:00 p.m. on December 19, 2008. He indicated that he took the video after he got home from Central Booking at approximately 3:00 p.m. on December 20, 2008. According to Respondent, he had not driven his car since coming home from work. The still shows a vehicle parked facing front-out. Snow had accumulated on the front windshield and hood, and the windshield wipers do not appear to have been used. Under the vehicle, tire tracks in the snow are present. They are not visible in front of the vehicle's front wheels.

The photographs appear to show that it was snowing when Respondent parked the car and continued snowing for a period thereafter. Person A testified that it was no longer snowing when she was shoveling, meaning that if Respondent had driven to her home around 11:00 p.m. and re-parked, there should not have been an unmolested accumulation of snow in front of his vehicle. There are limits to this conclusion, however. It is not known whether it snowed between the time of the alleged drive-by and the time Respondent took the video, which could have been around a 16-hour period. Cf. Pipero v. New York City Tr. Auth., 69 A.D.3d 493 (1st Dept. 2010) (triable issue created by defendant's submission of certified weather records showing that storm was in progress before and during plaintiff's fall, versus plaintiff's deposition testimony that it had not snowed on day of accident and that the snow in question had existed since previous day). Nor was there testimony as to exactly where Respondent lived, although his

certificate of disposition lists an address that is near [REDACTED]. Ultimately, therefore, the video evidence is of little value.

Respondent alleged that at 11:10 p.m., he was playing Xbox with Person D. The attendance record of Person D, a correction officer at Rikers Island, was introduced into evidence, however. It showed that he worked a 1500x2331 tour on December 19, 2008. That means he was still at work at 11:10 p.m. This demonstrates that Respondent's alibi was false.

Person A, for her part, testified in a straightforward manner that she observed Respondent's face and recognized his vehicle. The Court does not view the fact that she waited almost two hours to make a police report as damaging her credibility. This was an individual that had been to the police time and time again as a result of Respondent's actions. It is reasonable that, as she testified, she waited to finish shoveling, knowing that the process of dealing with the police would take a long time. The Court notes that property owners in New York City are responsible for snow removal from their sidewalks within four hours after the snow stops. Person A also asserted that she did not want to "make a scene" in front of her neighbors.

In sum, there is Person A's credible testimony, Respondent's false testimony about Person D, and the inconclusive evidence as to the snow around and on his vehicle. As a whole, the evidence demonstrated that it was more likely than not that Respondent drove past Person A's residence on December 19, 2008, in violation of the order of protection. As such, Respondent is found Guilty in Case No. 2009-0879.

Case No. 2011-4738

Respondent is charged with making a sexually-laden comment to a female arraignee while working in the Manhattan Court Section. On September 6, 2010, prisoner Person B appeared in Manhattan Criminal Court for arraignment on a driving while intoxicated charge. She had been arrested early that morning, in the overnight hours, after going out with friends. She was still wearing the tight dress and high heels from the night out. When Person B was brought into the arraignment part, she was placed on a bench facing the same way as the judge. She observed that there were three NYPD officers sitting at a table, facing her. Two were African American and one was white. Of the two African Americans, one had braids in his hair and the other had short hair. The braided officer, whom Person B identified as Respondent, was on Person B's left. The white officer was in the middle of the seats and the second African American officer was on the other end. When it came time for her turn before the judge, she walked by Respondent. She heard Respondent say to the white officer, “[S]he's so skinny I would break her, I would definitely break her.” He repeated this twice. At the time of her actual appearance before the judge, the officers were standing.

Police Officer Ronald Robinson was identified as the African American officer with the short hair. He denied making the comment, saying that Respondent was sitting next to him and leaned over and made the remark. Respondent denied making the comment, saying that it was Robinson that made it. He claimed that Robinson later thuggishly threatened him, saying that he “better eat that” and “not snitch.”

Under Person B's description of the courtroom, which was unrebutted as to the location of Respondent, the closest of the three NYPD officers to her was Respondent. This was not a difficult identification for her to make, especially because there were only three possibilities and

they all looked distinct from each other. The Court notes that Respondent and Robinson had no facial similarities other than skin color. Thus, the Court credits her testimony that it was Respondent that made the comment. Furthermore, the Court rejects as self-serving Respondent's testimony that Robinson threatened him after making the remark himself. As such, the Court finds Respondent Guilty in Case No. 2011-4738.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on July 1, 2002. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

Respondent has been found Guilty of sending a threatening e-mail to [REDACTED]

[REDACTED], Person A. The full text of the e-mail, in evidence as DX 1, is instructive as to

I would have done ANYTHING just for you to speak to me. Was that too much to ask? But nooooooooo you had to be a stupid fucking bitch. How the fuck you gonna delete me from xbox live and I bought that shit for you? Ok, if that's the way you want it. All bets are off, no more mr. nice guy. I am not like Martin and I am not like Mark, or none of those other niggas you fucked and threw away like a used condom. You wanna know why I don't want you? Your pussy is whack, your shit is as wide as the ocean, you been fucking too much. Stupid fucking whore! And on top of that you a ugly bald headed bitch. I have never hit a girl before but for real for real if you see me in the streets you better run.

Person A went to the Department, and Respondent was instructed by the duty captain not to contact her. Yet, he continued to do so, and Person A went to the courts and received a court-ordered order of protection in her favor. A desk appearance ticket had been issued for Respondent and he pleaded guilty to disorderly conduct. Respondent violated this first order in April 2008 by sending Person A a friend request on a social-networking website. He was

arrested and a second order of protection was issued by a judge in criminal court. He was again convicted of disorderly conduct. He violated both the first and second court-ordered orders of protection by driving by Person A's home on December 19, 2008, and was arrested again. This time, he was convicted of attempted criminal contempt in the second degree, a misdemeanor.

Although Respondent denied the last incident, he admitted the other contacts. He said that he had been drinking when he sent the e-mail, and was otherwise not thinking clearly due to the loss of several close friends and relatives.

Respondent has also been found Guilty of remarking about a female arraignee, in sum and substance, "She's so skinny, I would break her, can you imagine?" The sexual meaning of this was as clear to the arraignee as it was to the Court.

Respondent argued for a penalty of less than termination. It is true that the violation of orders of protection does not always result in termination. See, e.g., Case No. 86424/10, Jan. 19, 2011 (10 vacation days for 15-year sergeant with no prior disciplinary record for violating order of protection when he sent flowers with a note reading, "It aint too late" to the complainant); Case No. 85676/09 et al., Nov. 23, 2010 (75 days and dismissal probation for 19-year lieutenant with no record who, inter alia, punched [REDACTED], dragged her, pulled her hair and threatened to cut her head off while he was holding a saw; he also violated order of protection and sent harassing e-mails to [REDACTED] friend). Such cases sometimes have resulted in termination, however. See, e.g., Case No. 76729/01 et al., Oct. 15, 2004 (13-year member with 1998 disciplinary adjudication for unwanted physical contact and failure to be in proper attire terminated for, inter alia, striking the mother of his daughter and pulling out clumps of her hair, violating order of protection when he harassed her at Family Court, and disobedience and courtesy toward ranking supervisors surrounding these incidents).

Ultimately, of course, every case must be judged on its own merits. What makes the instant matter distinct is the continuing course of stalking Respondent engaged in toward Person A. He tried contacting her and she did not answer. He responded with a hateful and threatening e-mail. When ordered by a captain in this Department not to contact her again, he continued to do so, using an excuse that he had to tell her that his grandmother died. Even after an order of protection was issued, he still tried to friend her on Facebook or MySpace. He was arrested and another order of protection was issued, but he still drove by her house later that year, resulting in a second arrest.

Respondent was on modified duty as a result of these incidents. He had to know that his future with the Department was in jeopardy and that he should cease getting in any further trouble. Yet when Respondent observed an attractive female arrestee at arraignment, still wearing her dress and shoes from the night out before, he felt the need to make a comment about her, implying that if he were to have sex with her, he would "break her" because he was so much bigger. He said this loudly enough for the arraignee to hear.

The cases cited by Respondent are inapposite. In *Case No. 2011-3624*, now pending before the Police Commissioner, the officer was arrested but it is unclear for what offense: Respondent's recitation on summation is different from the transcript of the plea. She sent either "numerous" or several hundred text messages, in violation of the order of protection, to either an ex-girlfriend or a spouse with whom she was going through a divorce. In criminal court, the officer pleaded guilty to disorderly conduct. In the Trial Room, she agreed to a recommended penalty of 15 vacation days. The Advocate on that case noted that the texts were not threatening in any way.

That case appears to be similar to *Case No. 85043/09 et al.*, signed October 4, 2011. There, a 17-year police officer with no record forfeited 45 days after an incident in which he knocked over [REDACTED] and did not report the incident. Further, the officer texted [REDACTED] outside the terms of the order of protection that was issued after the physical altercation. The order stated that he was allowed to communicate with [REDACTED] about the children, but this devolved into various back-and-forth texting sessions, certain of which went beyond the order's safe harbor. Many were about financial matters but none were threatening.

In contrast, in the instant case, Respondent threatened Person A with physical harm in an e-mail laden with violence and misogyny. The context of the e-mail demonstrates the dubiousness of his testimony that he did not really mean it. His further contacts with her were not incidental to legitimate conduct. They demonstrated an inability to follow the commands of a ranking supervisor in this Department and a state court judge. His conduct regarding Person B really was just more of the same. “[S]uch behavior exhibited by the Respondent indicates his failing to comport himself with the discipline and integrity necessary to the performance of a police officer, including an inability to accept responsibility for his misconduct. By way of such off-duty and on-duty actions, the Respondent has also demonstrated a continued unwillingness to comply with rules and procedures.” See 76729/01, Police Comm'r's mem., p. 3.

Accordingly, the Court recommends that Respondent be DISMISSED from employment with the Department.



Respectfully submitted,


David S. Weisel
Assistant Deputy Commissioner – Trials

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER KALOMO GLOVER
TAX REGISTRY NO. 930228
DISCIPLINARY CASE NOS. 2008-0876 (83764/08)
2008-0878 (84042/08)
2009-0879 (84881/09) &
2011-4738

In 2010 and 2011, Respondent received an overall rating of 3.5 “Highly Competent/Competent” on his annual performance evaluation. He was rated 4.0 “Highly Competent” in 2009. [REDACTED]

[REDACTED] Category A in 2010. Due to poor performance, Respondent was placed on Special Monitoring – Level III in February 2009. He has no prior formal disciplinary record.

For your consideration.



David S. Weisel
Assistant Deputy Commissioner – Trials